

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

<p>RAYE THERESA ZAMMIT, Plaintiff(s), v. RICHARD SOLOMONS, et al., Defendant(s).</p>	<p>Case No. 2:21-cv-00738-JAD-NJK Report and Recommendation</p>
<p>TANYA RENEE ROBERSON, Plaintiff(s), v. FRANK GIUNTA, Defendant(s).</p>	<p>Case No. 2:21-cv-00740-JAD-NJK Report and Recommendation</p>
<p>AARON JOHN DEVRIES, et al., Plaintiff(s), v. JASON MIKKELSEN, Defendant(s).</p>	<p>Case No. 2:21-cv-00741-JAD-NJK Report and Recommendation</p>
<p>ALESA LYN HART, Plaintiff(s), v. DAVID SIMON, et al., Defendant(s).</p>	<p>Case No. 2:21-cv-00742-JAD-NJK Report and Recommendation</p>

1 2 3 4 5	BAHAELDEEN JACKNOON, Plaintiff(s), v. FLORENCE J. ARM, Defendant(s).	Case No. 2:21-cv-00743-JAD-NJK Report and Recommendation
6 7 8 9 10	ALESA LYN HART, Plaintiff(s), v. PELICAN PLAZA MANAGEMENT COMPANY, LLC, et al., Defendant(s).	Case No. 2:21-cv-00744-JAD-NJK Report and Recommendation
11 12 13 14 15	BARBARA J. STRUTHERS, Plaintiff(s), v. MORTON SCHAPIRO, et al., Defendant(s).	Case No. 2:21-cv-00745-JAD-NJK Report and Recommendation
16 17 18 19 20	ALESA LYN HART, Plaintiff(s), v. NATHAN BENDERSON, Defendant(s).	Case No. 2:21-cv-00746-JAD-NJK Report and Recommendation
21 22 23 24 25 26 27 28	BECKY BARNES-BOERS, Plaintiff(s), v. FIRST STREET SCHOOL, et al., Defendant(s).	Case No. 2:21-cv-00747-JAD-NJK Report and Recommendation

1 ALESA LYNN HART, 2 Plaintiff(s), 3 v. 4 STEPHEN F. LOVELL, 5 Defendant(s).	Case No. 2:21-cv-00748-JAD-NJK Report and Recommendation
6 BETTY J. BENNING, 7 Plaintiff(s), 8 v. 9 GARY C. MOHR, et al., 10 Defendant(s).	Case No. 2:21-cv-00749-JAD-NJK Report and Recommendation
11 ALESA LYN HART, 12 Plaintiff(s), 13 v. 14 MARY DILLON, et al., 15 Defendant(s).	Case No. 2:21-cv-00750-JAD-NJK Report and Recommendation
16 ELEANOR CLAIRE D'AMICO, 17 Plaintiff(s), 18 v. 19 RITE AID STORE #10640, MANAGER, et 20 al., 21 Defendant(s).	Case No. 2:21-cv-00751-JAD-NJK Report and Recommendation
22 ALESA LYN HART, 23 Plaintiff(s), 24 v. 25 ARNE SORENSEN, et al., 26 Defendant(s).	Case No. 2:21-cv-00752-JAD-NJK Report and Recommendation

1 ELEANOR CLAIRE D'AMICO, 2 Plaintiff(s), 3 v. 4 MACY'S GENERAL MANAGER, et al., 5 Defendant(s).	Case No. 2:21-cv-00753-JAD-NJK Report and Recommendation
6 TENNILLE IRENE HOUSTON, 7 Plaintiff(s), 8 v. 9 BRIAN BEAN, et al., 10 Defendant(s).	Case No. 2:21-cv-00754-JAD-NJK Report and Recommendation
11 AMORINE LEWIS, 12 Plaintiff(s), 13 v. 14 ROSSMORE PARK HOA PRESIDENT, et 15 al., 16 Defendant(s).	Case No. 2:21-cv-00755-JAD-NJK Report and Recommendation
17 ELEANOR CLARE D'AMICO, 18 Plaintiff(s), 19 v. 20 U.S. POST OFFICE, MANAGER, et al., 21 Defendant(s).	Case No. 2:21-cv-00756-JAD-NJK Report and Recommendation
22 TERESA ANN MCCONNELL, 23 Plaintiff(s), 24 v. 25 TERESA PARKHURST, 26 Defendant(s).	Case No. 2:21-cv-00757-JAD-NJK Report and Recommendation

1 ELEANOR CLAIRE D'AMICO, 2 Plaintiff(s), 3 v. 4 BED, BATH & BEYOND, et al., 5 Defendant(s).	Case No. 2:21-cv-00758-JAD-NJK Report and Recommendation
6 TERRI JAYNE READ, 7 Plaintiff(s), 8 v. 9 HOLIDAY INN CLUB VACATIONS, et al., 10 Defendant(s).	Case No. 2:21-cv-00759-JAD-NJK Report and Recommendation
11 ELEANOR CLAIRE D'AMICO, 12 Plaintiff(s), 13 v. 14 HUNTINGTON HOSPITAL, et al., 15 Defendant(s).	Case No. 2:21-cv-00760-JAD-NJK Report and Recommendation
16 AMY DEANNA HOOD, 17 Plaintiff(s), 18 v. 19 JOHN C. MALONE, et al., 20 Defendant(s).	Case No. 2:21-cv-00761-JAD-NJK Report and Recommendation
21 ELEANOR CLARE D'AMICO, 22 Plaintiff(s), 23 v. 24 WALT WHITMAN SHOPS, et al., 25 Defendant(s).	Case No. 2:21-cv-00762-JAD-NJK Report and Recommendation

1 THOMAS K. BEADLING, 2 Plaintiff(s), 3 v. 4 JENNIFER CUTHBERT, et al., 5 Defendant(s).	Case No. 2:21-cv-00763-JAD-NJK Report and Recommendation
6 ANDY SEEMAN, 7 Plaintiff(s), 8 v. 9 MATTHEW JOBLON, et al., 10 Defendant(s).	Case No. 2:21-cv-00764-JAD-NJK Report and Recommendation
11 ELEANOR CLAIRE D'AMICO, 12 Plaintiff(s), 13 v. 14 COSTCO WHOLESALE, et al., 15 Defendant(s).	Case No. 2:21-cv-00766-JAD-NJK Report and Recommendation
16 ELEANOR CLAIRE D'AMICO, 17 Plaintiff(s), 18 v. 19 THE HOME DEPOT, et al., 20 Defendant(s).	Case No. 2:21-cv-00767-JAD-NJK Report and Recommendation
21 ELEANOR CLAIRE D'AMICO, 22 Plaintiff(s), 23 v. 24 STOP & SHOP, et al., 25 Defendant(s).	Case No. 2:21-cv-00769-JAD-NJK Report and Recommendation

1 ELEANOR CLAIRE D'AMICO, 2 Plaintiff(s), 3 v. 4 STAPLES, et al., 5 Defendant(s).	Case No. 2:21-cv-00771-JAD-NJK Report and Recommendation
6 T.R.J., et al., 7 Plaintiff(s), 8 v. 9 MR. ANDREY KRUGLYKIN, et al., 10 Defendant(s).	Case No. 2:21-cv-00772-JAD-NJK Report and Recommendation
11 ANNE ELIZABETH FERRANTE, 12 Plaintiff(s), 13 v. 14 SC INVESTMENTS LAS VEGAS INC., et 15 al., 16 Defendant(s).	Case No. 2:21-cv-00774-JAD-NJK Report and Recommendation
17 C.C.H., et al., 18 Plaintiff(s), 19 v. 20 DELLCOR MANAGEMENT, INC., 21 Defendant(s).	Case No. 2:21-cv-00775-JAD-NJK Report and Recommendation
22 JENNIFER C. MUELLER, 23 Plaintiff(s), 24 v. 25 TERRY MANUEL, et al., 26 Defendant(s).	Case No. 2:21-cv-00776-JAD-NJK Report and Recommendation

1 ANTHONY JOHN AMORELLO, 2 Plaintiff(s), 3 v. 4 DOUGLAS A. KESSLER, et al., 5 Defendant(s).	Case No. 2:21-cv-00777-JAD-NJK Report and Recommendation
6 TRICHELE REESE, 7 Plaintiff(s), 8 v. 9 TISHMAN SPEYER PROPERTIES, LP, et 10 al., 11 Defendant(s).	Case No. 2:21-cv-00778-JAD-NJK Report and Recommendation
12 JOHN DONALD MESZAROS, et al., 13 Plaintiff(s), 14 v. 15 INTERVAL INTERNATIONAL, INC., et al., 16 Defendant(s).	Case No. 2:21-cv-00779-JAD-NJK Report and Recommendation
17 VALERIE BATCHELOR, et al., 18 Plaintiff(s), 19 v. 20 CHRISTOPHER J. NASSETTA, et al., 21 Defendant(s).	Case No. 2:21-cv-00780-JAD-NJK Report and Recommendation
22 CAROL A. WILLIAMS, 23 Plaintiff(s), 24 v. 25 EXTENDED STAY OF AMERICA 26 ATLANTA MANAGER, et al., 27 Defendant(s).	Case No. 2:21-cv-00781-JAD-NJK Report and Recommendation

1 JOHN SMITH WILLIAMS, 2 Plaintiff(s), 3 v. 4 MICHAEL W. BRYANT, 5 Defendant(s).	Case No. 2:21-cv-00782-JAD-NJK Report and Recommendation
6 WILLIAM FREDERICK SAAR, 7 Plaintiff(s), 8 v. 9 STEVEN B. TANGER, et al., 10 Defendant(s).	Case No. 2:21-cv-00783-JAD-NJK Report and Recommendation
11 JUDY KAY KATZ, 12 Plaintiff(s), 13 v. 14 MOLINE POST OFFICE POSTMASTER, et 15 al., 16 Defendant(s).	Case No. 2:21-cv-00784-JAD-NJK Report and Recommendation
17 JULIE SIKORSKY, 18 Plaintiff(s), 19 v. 20 DAVID JEFFREY, et al., 21 Defendant(s).	Case No. 2:21-cv-00785-JAD-NJK Report and Recommendation
22 JASON CLARK, 23 Plaintiff(s), 24 v. 25 MOTORWORLD AUTOMOTIVE GROUP, 26 INC., et al., 27 Defendant(s).	Case No. 2:21-cv-00786-JAD-NJK Report and Recommendation

1 JAMES MARTIN WOLF, 2 Plaintiff(s), 3 v. 4 RICHARD SOLOMONS, et al., 5 Defendant(s).	Case No. 2:21-cv-00789-JAD-NJK Report and Recommendation
6 JAN SNELL HOUSTON, 7 Plaintiff(s), 8 v. 9 WALMART SUPERCENTER MANAGER, 10 et al., 11 Defendant(s).	Case No. 2:21-cv-00790-JAD-NJK Report and Recommendation
12 JAN SNELL HOUSTON, 13 Plaintiff(s), 14 v. 15 DEKALB REGIONAL MEDICAL 16 CENTER, et al., 17 Defendant(s).	Case No. 2:21-cv-00791-JAD-NJK Report and Recommendation
18 JANET J. MCALISTER, 19 Plaintiff(s), 20 v. 21 JACK MILLER, et al., 22 Defendant(s).	Case No. 2:21-cv-00792-JAD-NJK Report and Recommendation
23 JANETTE PIRIE, 24 Plaintiff(s), 25 v. 26 DRD HOSPITALITY, INC., et al., 27 Defendant(s).	Case No. 2:21-cv-00793-JAD-NJK Report and Recommendation

1 JASON CLARK, 2 Plaintiff(s), 3 v. 4 JOHN LILLY, M.D., et al., 5 Defendant(s).	Case No. 2:21-cv-00794-JAD-NJK Report and Recommendation
6 JASON CLARK, 7 Plaintiff(s), 8 v. 9 PAUL J. WITT, 10 Defendant(s).	Case No. 2:21-cv-00795-JAD-NJK Report and Recommendation
11 ELEANOR CLAIRE D'AMICO, 12 Plaintiff(s), 13 v. 14 TARGET HUNTINGTON MANAGER, et al., 15 Defendant(s).	Case No. 2:21-cv-00796-APG-NJK Report and Recommendation
16 ELEANOR CLAIRE D'AMICO, 17 Plaintiff(s), 18 v. 19 KETEWOMOKE YACHT CLUB, 20 Defendant(s).	Case No. 2:21-cv-00797-JAD-NJK Report and Recommendation
21 ELEANOR CLAIRE D'AMICO, 22 Plaintiff(s), 23 v. 24 TOWN OF HUNTINGTON, NY, et al., 25 Defendant(s).	Case No. 2:21-cv-00798-JAD-NJK Report and Recommendation

1 ELEANOR CLARE D'AMICO, 2 Plaintiff(s), 3 v. 4 KMAR STORE #9381 MANAGER, et al., 5 Defendant(s).	Case No. 2:21-cv-00800-JAD-NJK Report and Recommendation
6 HEATHER RENEE NANCE, 7 Plaintiff(s), 8 v. 9 DAVE KING, et al., 10 Defendant(s).	Case No. 2:21-cv-00801-JAD-NJK Report and Recommendation
11 HEATHER RENEE NANCE, 12 Plaintiff(s), 13 v. 14 STEPHEN P. JOYCE, et al., 15 Defendant(s).	Case No. 2:21-cv-00802-JAD-NJK Report and Recommendation
16 DEBRA L. HUGHSON, 17 Plaintiff(s), 18 v. 19 DAVID KONG, et al., 20 Defendant(s).	Case No. 2:21-cv-00803-JAD-NJK Report and Recommendation
21 DENNIS J. TROCCIOLA, 22 Plaintiff(s), 23 v. 24 PRC GROUP, et al., 25 Defendant(s).	Case No. 2:21-cv-00804-JAD-NJK Report and Recommendation

1 DIANE QUACKENBUSH, 2 Plaintiff(s), 3 v. 4 JOEY DECUFFA, et al., 5 Defendant(s).	Case No. 2:21-cv-00805-JAD-NJK Report and Recommendation
6 DOMINIC L. MAZZONE, JR., 7 Plaintiff(s), 8 v. 9 JANET MOLLEN, et al., 10 Defendant(s).	Case No. 2:21-cv-00806-JAD-NJK Report and Recommendation
11 ELEANOR CLAIRE D'AMICO, 12 Plaintiff(s), 13 v. 14 KING KULLEN GENERAL MANAGER, et 15 al., 16 Defendant(s).	Case No. 2:21-cv-00807-JAD-NJK Report and Recommendation
17 ELEANOR CLAIRE D'AMICO, 18 Plaintiff(s), 19 v. 20 PRIME RESTAURANT MANAGER, et al., 21 Defendant(s).	Case No. 2:21-cv-00808-JAD-NJK Report and Recommendation
22 COREY ADAM HANSON, 23 Plaintiff(s), 24 v. 25 MICHAEL BRINDSI, et al., 26 Defendant(s).	Case No. 2:21-cv-00809-JAD-NJK Report and Recommendation

1 CHRISTINA EARHEART, 2 Plaintiff(s), 3 v. 4 RICHARD SOLOMONS, 5 Defendant(s).	Case No. 2:21-cv-00810-JAD-NJK Report and Recommendation
6 GARTH A. LEONARD, 7 Plaintiff(s), 8 v. 9 U.S. POSTAL SERVICES POSTMASTER, 10 et al., 11 Defendant(s).	Case No. 2:21-cv-00811-JAD-NJK Report and Recommendation
12 CYNTHIA GATES, 13 Plaintiff(s), 14 v. 15 WAYNE B. GOLDBERG, et al., 16 Defendant(s).	Case No. 2:21-cv-00812-JAD-NJK Report and Recommendation
17 GINA B. WILLIAMS, 18 Plaintiff(s), 19 v. 20 ALEX C. CABANAS, et al., 21 Defendant(s).	Case No. 2:21-cv-00813-JAD-NJK Report and Recommendation
22 CYNTHIA GATES, 23 Plaintiff(s), 24 v. 25 CARNIVAL CORPORATION & PLC, et al., 26 Defendant(s).	Case No. 2:21-cv-00814-JAD-NJK Report and Recommendation

1 DALE AUSTIN STOPP, 2 Plaintiff(s), 3 v. 4 ANDY FOLEY, 5 Defendant(s).	Case No. 2:21-cv-00815-JAD-NJK Report and Recommendation
6 DAVID ALAN FIELDSEND, 7 Plaintiff(s), 8 v. 9 LA QUINTA HOLDINGS, et al., 10 Defendant(s).	Case No. 2:21-cv-00816-JAD-NJK Report and Recommendation
11 DAVID J. WHITE, 12 Plaintiff(s), 13 v. 14 MICHEL T. REYNOLDS, et al., 15 Defendant(s).	Case No. 2:21-cv-00817-JAD-NJK Report and Recommendation
16 DAVID HIGGINBOTHAM, 17 Plaintiff(s), 18 v. 19 FEDEX CORPORATION, et al., 20 Defendant(s).	Case No. 2:21-cv-00818-JAD-NJK Report and Recommendation
21 DAVID HIGGINBOTHAM, 22 Plaintiff(s), 23 v. 24 CAROL Z. GARRISON, et al., 25 Defendant(s).	Case No. 2:21-cv-00819-JAD-NJK Report and Recommendation

1 DAVID HIGGINBOTHAM, 2 Plaintiff(s), 3 v. 4 BIRMINGHAM CITY HALL, et al., 5 Defendant(s).	Case No. 2:21-cv-00820-JAD-NJK Report and Recommendation
6 KATHERINE MARY TROTTIER, 7 Plaintiff(s), 8 v. 9 DAVID J.G. BLACKMORE, et al., 10 Defendant(s).	Case No. 2:21-cv-00821-JAD-NJK Report and Recommendation
11 KATHERINE MARY TROTTIER, 12 Plaintiff(s), 13 v. 14 STEVE EASTERBROOK, et al., 15 Defendant(s).	Case No. 2:21-cv-00823-JAD-NJK Report and Recommendation
16 KELLY-ANN LARSON, 17 Plaintiff(s), 18 v. 19 TRIPLE FIVE GROUP GHERMEZIAN 20 BROTHERS, 21 Defendant(s).	Case No. 2:21-cv-00824-JAD-NJK Report and Recommendation
22 KENNETH M. MERONEY, 23 Plaintiff(s), 24 v. 25 CHRISTOPHER J. NASSETTA, et al., 26 Defendant(s).	Case No. 2:21-cv-00825-JAD-NJK Report and Recommendation

1 KENNETH MERONY, 2 Plaintiff(s), 3 v. 4 CHRISTOPHER J. NASSETTA, et al., 5 Defendant(s).	Case No. 2:21-cv-00826-JAD-NJK Report and Recommendation
6 KRISTEN RICHMOND, 7 Plaintiff(s), 8 v. 9 VALLEY VIEW ELEMENTARY SCHOOL, 10 Defendant(s).	Case No. 2:21-cv-00827-JAD-NJK Report and Recommendation
11 LAURA BARTEL, 12 Plaintiff(s), 13 v. 14 CHOICE HOTELS INTERNATIONAL, 15 INC., et al., 16 Defendant(s).	Case No. 2:21-cv-00828-JAD-NJK Report and Recommendation
17 LAURA BARTEL, 18 Plaintiff(s), 19 v. 20 BEST WESTERN CORPORATE OFFICE 21 AND HEADQUARTERS, et al., 22 Defendant(s).	Case No. 2:21-cv-00829-JAD-NJK Report and Recommendation
23 LAURA BARTEL, 24 Plaintiff(s), 25 v. 26 WYNDHAM WORLDWIDE 27 CORPORATION, et al., 28 Defendant(s).	Case No. 2:21-cv-00830-JAD-NJK Report and Recommendation

1 LAURA BARTEL, 2 Plaintiff(s), 3 v. 4 LA QUINTA HOLDINGS, et al., 5 Defendant(s).	Case No. 2:21-cv-00832-JAD-NJK Report and Recommendation
6 LAURA BETA GRABER, 7 Plaintiff(s), 8 v. 9 U.S. POSTAL SERVICES, POSTMASTER 10 GENERAL, et al., 11 Defendant(s).	Case No. 2:21-cv-00833-JAD-NJK Report and Recommendation
12 LAURA XIRENA GONZALEZ, 13 Plaintiff(s), 14 v. 15 DANNY GUTIERREZ, SR., et al., 16 Defendant(s).	Case No. 2:21-cv-00834-JAD-NJK Report and Recommendation
17 LAURALEE TYLER, 18 Plaintiff(s), 19 v. 20 BEAR MOUNTAIN STATE PARK, et al., 21 Defendant(s).	Case No. 2:21-cv-00836-JAD-NJK Report and Recommendation
22 LINDA SUE WITTUM, 23 Plaintiff(s), 24 v. 25 TRAVIS JANTZEN, et al., 26 Defendant(s).	Case No. 2:21-cv-00838-JAD-NJK Report and Recommendation

1 LINK J. CHANEY, 2 Plaintiff(s), 3 v. 4 JIMMY HENSON, 5 Defendant(s).	Case No. 2:21-cv-00840-JAD-NJK Report and Recommendation
6 LUCRECIA PEREZ, 7 Plaintiff(s), 8 v. 9 STUART D. GOLDSTEIN, et al., 10 Defendant(s).	Case No. 2:21-cv-00841-JAD-NJK Report and Recommendation
11 MARK ALLAN UNTERSCHER, 12 Plaintiff(s), 13 v. 14 STEPHEN P. HOLMES, et al., 15 Defendant(s).	Case No. 2:21-cv-00842-JAD-NJK Report and Recommendation
16 MARK ALLAN UNTERSEHER, 17 Plaintiff(s), 18 v. 19 HOLIDAY INN CLUB VACATIONS, et al., 20 Defendant(s).	Case No. 2:21-cv-00845-JAD-NJK Report and Recommendation
21 MARLA DEWALT SUMMEY, 22 Plaintiff(s), 23 v. 24 ST. PAUL'S EPISCOPAL SCHOOL 25 BOARD CHAIRMAN AND SCHOOL RECTOR, et al., 26 Defendant(s).	Case No. 2:21-cv-00846-JAD-NJK Report and Recommendation

1 MARLA DEWALT SUMMEY, 2 Plaintiff(s), 3 v. 4 TAMMY WEBB, et al., 5 Defendant(s).	Case No. 2:21-cv-00847-JAD-NJK Report and Recommendation
6 MARY BETH ENGLUND, 7 Plaintiff(s), 8 v. 9 KARYN HUEMOELLER, et al., 10 Defendant(s).	Case No. 2:21-cv-00849-JAD-NJK Report and Recommendation
11 PATRICK CHARLES PARKER, 12 Plaintiff(s), 13 v. 14 JOHN ADAMS, et al., 15 Defendant(s).	Case No. 2:21-cv-00850-JAD-NJK Report and Recommendation
16 PAUL ALLEN TAYLOR, 17 Plaintiff(s), 18 v. 19 GENE IMEL, et al., 20 Defendant(s).	Case No. 2:21-cv-00851-JAD-NJK Report and Recommendation
21 MARYANNE CHRISTINA PIENTA, 22 Plaintiff(s), 23 v. 24 ANTHONY CLARK, et al., 25 Defendant(s).	Case No. 2:21-cv-00852-JAD-NJK Report and Recommendation

1 PAUL JAMES CAPASSO, 2 Plaintiff(s), 3 v. 4 CHRIS ROUSSOS, et al., 5 Defendant(s).	Case No. 2:21-cv-00853-JAD-NJK Report and Recommendation
6 PAULINE VICTORIA AUGHE, 7 Plaintiff(s), 8 v. 9 ALBERT JEYTE, et al., 10 Defendant(s).	Case No. 2:21-cv-00854-JAD-NJK Report and Recommendation
11 RICK SCHUSSLER, 12 Plaintiff(s), 13 v. 14 STONEPINE HOA PRESIDENT, et al., 15 Defendant(s).	Case No. 2:21-cv-00855-JAD-NJK Report and Recommendation
16 ROBERT J. GARLOW, 17 Plaintiff(s), 18 v. 19 RICHARD M. BRACKEN, et al., 20 Defendant(s).	Case No. 2:21-cv-00856-JAD-NJK Report and Recommendation
21 CONNIE CARR, 22 Plaintiff(s), 23 v. 24 BERKLEY SOUTH CONDOMINIUM ASSOCIATION, INC., et al., 25 Defendant(s).	Case No. 2:21-cv-00857-JAD-NJK Report and Recommendation

1 ROBERT WESLEY HENDERSON, 2 Plaintiff(s), 3 v. 4 CRAIG M. NASH, et al., 5 Defendant(s).	Case No. 2:21-cv-00858-JAD-NJK Report and Recommendation
6 ROBIN FLYNN, 7 Plaintiff(s), 8 v. 9 JOHN Z. KUKRAL, et al., 10 Defendant(s).	Case No. 2:21-cv-00859-JAD-NJK Report and Recommendation
11 RONALD LEE PENDLETON, 12 Plaintiff(s), 13 v. 14 BIGLARI HOLDINGS, et al., 15 Defendant(s).	Case No. 2:21-cv-00860-JAD-NJK Report and Recommendation
16 MARY LOU MATHIS, 17 Plaintiff(s), 18 v. 19 PAUL ALLEN, et al., 20 Defendant(s).	Case No. 2:21-cv-00861-JAD-NJK Report and Recommendation
21 MELINDA DIANE SCOTT, 22 Plaintiff(s), 23 v. 24 ANNA LINNEY, 25 Defendant(s).	Case No. 2:21-cv-00862-JAD-NJK Report and Recommendation

1 ROSEMARY RAMIREZ, 2 Plaintiff(s), 3 v. 4 LA CAZE DEVELOPMENT COMPANY, 5 LLC, et al., 6 Defendant(s).	Case No. 2:21-cv-00863-JAD-NJK Report and Recommendation
7 CHARY LYNN HELTON, 8 Plaintiff(s), 9 v. 10 MICHAEL JENSEN-SILVA, et al., 11 Defendant(s).	Case No. 2:21-cv-00864-JAD-NJK Report and Recommendation
12 MELISSA COFFEY, 13 Plaintiff(s), 14 v. 15 AVA TOLUCA HILLS APARTMENTS, 16 Defendant(s).	Case No. 2:21-cv-00865-JAD-NJK Report and Recommendation
17 CECIL E. BROWN, 18 Plaintiff(s), 19 v. 20 BAL HARBOUR CHATEAUX 21 CONDOMINIUM ASSOCIATION, INC., et 22 al., 23 Defendant(s).	Case No. 2:21-cv-00866-JAD-NJK Report and Recommendation
24 CONNIE S. YUNA, et al., 25 Plaintiff(s), 26 v. 27 CAPITAL RESORTS OCEAN VIEW 28 VACATION VILLAS, et al., 29 Defendant(s).	Case No. 2:21-cv-00867-JAD-NJK Report and Recommendation

1 MICHAEL C. LUCAS, 2 Plaintiff(s), 3 v. 4 JEFFERSON COUNTY PUBLIC LIBRARY, 5 et al., 6 Defendant(s).	Case No. 2:21-cv-00868-JAD-NJK Report and Recommendation
7 NANCY HENDLER, 8 Plaintiff(s), 9 v. 10 ANDREW ALEXANDER, et al., 11 Defendant(s).	Case No. 2:21-cv-00869-JAD-NJK Report and Recommendation
12 NANCY HENDLER, 13 Plaintiff(s), 14 v. 15 WAL-MART STORES, INC., et al., 16 Defendant(s).	Case No. 2:21-cv-00870-JAD-NJK Report and Recommendation
17 MICHAEL W. PARKS, 18 Plaintiff(s), 19 v. 20 PATRICK H. HAMILL, et al., 21 Defendant(s).	Case No. 2:21-cv-00871-JAD-NJK Report and Recommendation
22 NANCY HENDLER, 23 Plaintiff(s), 24 v. 25 GATOR TOWN INN, 26 Defendant(s).	Case No. 2:21-cv-00872-JAD-NJK Report and Recommendation

1 MISTIE CORDES RODES, 2 Plaintiff(s), 3 v. 4 DORIS VOITIER, et al., 5 Defendant(s).	Case No. 2:21-cv-00873-JAD-NJK Report and Recommendation
6 PATRICIA BRANDON, 7 Plaintiff(s), 8 v. 9 INTERCONTINENTAL HOTELS GROUP 10 (IHG), et al., 11 Defendant(s).	Case No. 2:21-cv-00874-JAD-NJK Report and Recommendation
12 PATRICIA BRANDON, 13 Plaintiff(s), 14 v. 15 SASSY HENRY, et al., 16 Defendant(s).	Case No. 2:21-cv-00875-JAD-NJK Report and Recommendation
17 MITCHELL E. NIHART SR., 18 Plaintiff(s), 19 v. 20 INDIANA BUREAU OF MOTOR 21 VEHICLES, et al., 22 Defendant(s).	Case No. 2:21-cv-00876-JAD-NJK Report and Recommendation
23 SUSAN BRANDWEIN, 24 Plaintiff(s), 25 v. 26 MEGAN J. BRENNAN, et al., 27 Defendant(s).	Case No. 2:21-cv-00877-JAD-NJK Report and Recommendation

1 STEVEN WAYNE SWEDBERG, 2 Plaintiff(s), 3 v. 4 KEITH E. SMITH, et al., 5 Defendant(s).	Case No. 2:21-cv-00878-JAD-NJK Report and Recommendation
6 SHELLEY MICHELLE WRIGHT, 7 Plaintiff(s), 8 v. 9 MARK B. ROSENBERG, et al., 10 Defendant(s).	Case No. 2:21-cv-00879-JAD-NJK Report and Recommendation
11 MITCHELL J. OELLRICH, 12 Plaintiff(s), 13 v. 14 SIX FLAGS DISCOVERY KINGDOM, 15 Defendant(s).	Case No. 2:21-cv-00880-JAD-NJK Report and Recommendation
16 SHELDON L. KRESLER, et al., 17 Plaintiff(s), 18 v. 19 POMPANO ATLANTIS CONDOMINIUM 20 ASSOCIATION, INC., et al., 21 Defendant(s).	Case No. 2:21-cv-00881-JAD-NJK Report and Recommendation
22 SHARON L. TOWNSEND, 23 Plaintiff(s), 24 v. 25 BRUCE A. CORDINGLEY, et al., 26 Defendant(s).	Case No. 2:21-cv-00882-JAD-NJK Report and Recommendation

1 ROSEMARY SALES, 2 Plaintiff(s), 3 v. 4 BLACKSTONE GROUP, L.P., et al., 5 Defendant(s).	Case No. 2:21-cv-00883-JAD-NJK Report and Recommendation
6 MITCHELL J. OELLRICH, 7 Plaintiff(s), 8 v. 9 SILVER SMOKE AND LIQUOR STORE, 10 Defendant(s).	Case No. 2:21-cv-00884-JAD-NJK Report and Recommendation
11 SCOTT D. CHAFFEE, 12 Plaintiff(s), 13 v. 14 THE BLACKSTONE GROUP L.P., et al., 15 Defendant(s).	Case No. 2:21-cv-00886-JAD-NJK Report and Recommendation
16 STEVEN WAYNE SWEDBERG, 17 Plaintiff(s), 18 v. 19 IRWIN MOLASKY, et al., 20 Defendant(s).	Case No. 2:21-cv-00887-JAD-NJK Report and Recommendation
21 SIMONE C. DUVEN, 22 Plaintiff(s), 23 v. 24 CRAIG M. NASH, et al., 25 Defendant(s).	Case No. 2:21-cv-00888-JAD-NJK Report and Recommendation

1 JAMES MARTIN WOLF, 2 Plaintiff(s), 3 v. 4 RICHARD SOLOMONS, et al., 5 Defendant(s).	Case No. 2:21-cv-00895-JAD-NJK Report and Recommendation
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6 This is one of 140 cases initiated by Hank Falstad, who identifies himself as an ADA
7 architect. In its order dated May 7, 2021, the Court required Plaintiff to take action should Plaintiff
8 wish to continue with the litigation. In particular, Plaintiff was required to file an amended
9 complaint properly signed either by Plaintiff or by a licensed attorney. In addition, Plaintiff was
10 required to either pay the filing fee or file an application to proceed *in forma pauperis*. The
11 deadline for compliance was set at June 7, 2021. The Court warned that failure to comply with
12 that order may result in dismissal of the case. To date, Plaintiff has not complied with these
13 requirements.

14 The Federal Rules of Civil Procedure mandate that a complaint initiating a case must be
15 signed by the plaintiff herself or by her attorney. Fed. R. Civ. P. 11(a). “The court must strike an
16 unsigned paper unless the omission is promptly corrected after being called to the attorney’s or
17 party’s attention.” *Id.* Moreover, initiating a federal lawsuit generally requires the payment of a
18 filing fee. *See* 28 U.S.C. § 1914(a). To the extent a plaintiff cannot afford to pay the filing fee,
19 she must file an application to proceed *in forma pauperis*. *See* 28 U.S.C. § 1915(a). When a
20 plaintiff does not pay the filing fee or file an application to proceed *in forma pauperis*, the case
21 may be dismissed. *See, e.g., Desai v. Biden*, 2021 WL 38169, at *1 (E.D. Cal. Jan. 5, 2021),
22 *adopted*, 2021 WL 276236 (E.D. Cal. Jan. 27, 2021).

23 As noted above, there is not a properly signed complaint in this case and that defect has
24 not been cured despite an opportunity to do so. Moreover, Plaintiff has not paid the filing fee or
25 filed an application to proceed *in forma pauperis*.

26 The undersigned finds that dismissal without prejudice is appropriate under the
27 circumstances. A Court may dismiss an action based on a party’s failure to prosecute her case or
28 obey an order. *See, e.g., Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992); *Malone v.*

1 *U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987); *Henderson v. Duncan*, 779 F.2d 1421,
 2 1424 (9th Cir. 1986). In determining whether to dismiss an action on one of these grounds, the
 3 Court must consider: (1) the public's interest in expeditious resolution of litigation; (2) the Court's
 4 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
 5 disposition of cases on their merits; and (5) the availability of less drastic alternatives. *E.g., Ferdik*,
 6 963 F.2d at 1260–61.

7 These factors weigh in favor of dismissal here. The first two factors, the public's interest
 8 in expeditiously resolving this litigation and the Court's interest in managing its docket, weigh in
 9 favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
 10 dismissal because a presumption of injury arises from the occurrence of unreasonable delay in
 11 filing a pleading ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d
 12 522, 524 (9th Cir. 1976). A Court's warning to a party that its failure to obey an order will result
 13 in dismissal satisfies the fifth factor's "consideration of alternatives" requirement, *see, e.g., Ferdik*,
 14 963 F.2d at 1262, and that warning was given here. The fourth factor, the public policy favoring
 15 disposition of cases on their merits, is greatly outweighed by the factors favoring dismissal.

16 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without
 17 prejudice.

18 Dated: August 3, 2021

19 
 20 Nancy J. Koppe
 United States Magistrate Judge

21 **NOTICE**

22 This report and recommendation is submitted to the United States District Judge assigned
 23 to this case pursuant to 28 U.S.C. § 636(b)(1). A party who objects to this report and
 24 recommendation must file a written objection supported by points and authorities within fourteen
 25 days of being served with this report and recommendation. Local Rule IB 3-2(a). Failure to file
 26 a timely objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951
 27 F.2d 1153, 1157 (9th Cir. 1991).

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